

Notice of Allowability

Application No.

09/811,945

Examiner

Anish Gupta

Applicant(s)

SEBTI ET AL.

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6-23-05.
2. ☒ The allowed claim(s) is/are 4,5,15-17 and 22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 11-22-04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


ANISH GUPTA
PRIMARY EXAMINER

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DETAILED ACTION

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312.

To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jenna Morrison on 9-5-05.

The application has been amended as follows:

Claims 1, 6-14, 18-21 and 23-30 have been canceled.

The following claims have been amended.

Claim 15: The compound of claim 4 wherein said growth factor is vascular endothelial growth factor and wherein said tetrapeptide is GKGK (SEQ ID NO. 10); or GDGY (SEQ ID NO. 6); ~~or functionally related derivatives comprising a tetrapeptide with G in the first position and a G in the third position.~~

Claim 16: The compound of claim 4 wherein said growth factor is acidic fibroblast growth factor and wherein said tetrapeptide is GDDD (SEQ ID NO. 2), GKGK (SEQ ID NO. 10), GDDG (SEQ ID NO. 13); or GDGY (SEQ ID NO. 6); ~~or functionally related derivatives comprising a tetrapeptide with G in the first position.~~

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Claim 17: The compound of claim 4 wherein said growth factor is insulin-like growth factor -1 and wherein said tetrapeptide is GDDG (SEQ ID NO. 13), ~~or a functionally related derivative comprising a tetrapeptide with G in the first position and a D in the second position.~~

Reasons For Allowance

The following is an examiner's statement of reasons for allowance:

The claims are drawn to a compound having a calixarene loop to which are conjugated tetrapeptides. The closest prior art of Hamilton et al. disclose compounds with a calixarene ring and tetrapeptides. However, this reference does not anticipate nor render obvious the claimed invention for the following reasons. The MPEP states that for a broad Markush to anticipate or render obvious the claimed invention, the Markush must "at once in envisage" the specific compounds claimed for anticipation or an express teaching that would have motivated a specific selection, coupled with structural similarity coupled with similar properties or uses to support an obviousness rejection (see MPEP 2144.08).


In the instant case, the claims recite specific tetra peptides. The prior art specifically discloses one tetrapeptide, GDGD, and generally teaches a genus of tetrapeptides that can have glycine, aspartate, lysine, arginine, histidine, phenylalanine, serine, alanine, leucine, tyrosine, tryptophan, and glutamic acid in the same or different position. Given the large variation in the tetrapeptide genus, one cannot at once envisage the specific compound containing tetrapeptide claimed in claim 4. Thus, an prima facie case of anticipation cannot be made. Furthermore, one cannot render obvious the claimed tetrapeptide because the single species disclosed in the prior art does not provide specific motivation for selecting structurally similar peptide. Moreover, and most

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importantly, the disclosed peptides have completely different activity as the claimed invention. The prior art peptides are used to make libraries of artificial antibodies, whereas the claimed peptides are used as pharmaceuticals. Thus, claimed compounds are both novel and unobvious over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Gupta whose telephone number is (571)272-0965. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell, can normally be reached on (571) 272-0974. The fax phone number of this group is (571)-273-8300.


Anish Gupta
Patent Examiner